

1. INTRODUCTION

1.1 Purpose

The purpose of this guidance document is to provide direction for U.S. Department of Energy (DOE) field elements in complying with environmental requirements associated with the transfer of real property.

1.2 Scope

This guidance covers all types of real property, real property transfers, and environmental requirements associated with those transfers. Sites not owned by DOE but for which DOE has responsibilities are not covered.

1.2.1 Real versus Personal Property

Real property includes land and improvements on the land (such as access roads, buildings, and other structures). Equipment or fixtures (such as plumbing, electrical work, and elevators) installed in an improvement in a permanent manner or essential for the purpose of the improvement are part of the real property. Personal property covers movable items (i.e., neither fixed nor installed) that do not form an integral part of real property. Examples of personal property include furniture, free-standing cabinets, computers, and portable lamps. Personal property is beyond the scope of this guidance document. The distinction between real versus personal property becomes important in the chapters on cultural resources and polychlorinated biphenyls (PCBs).

1.2.2 Types of Real Property

This guidance covers three types of real property:

- Acquired land,
- Withdrawn land, and
- "Other" land.

Both acquired land and withdrawn land are Federal government-owned lands. Acquired land is real property that DOE (or its predecessors) originally purchased. Withdrawn land is land that has been withdrawn from the public domain and reserved by the Department of the Interior for use by DOE.

"Other" land is land in which DOE obtained an interest by means such as an easement, permit, or license. The distribution of DOE real property among these three types of land is shown in Exhibit 1-1. It is important to distinguish between the three different types of real property being

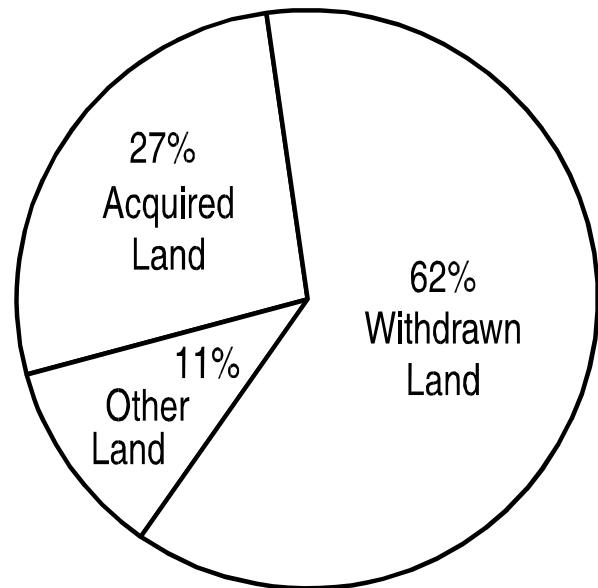


Exhibit 1-1. Distribution of the Types of DOE Real Property

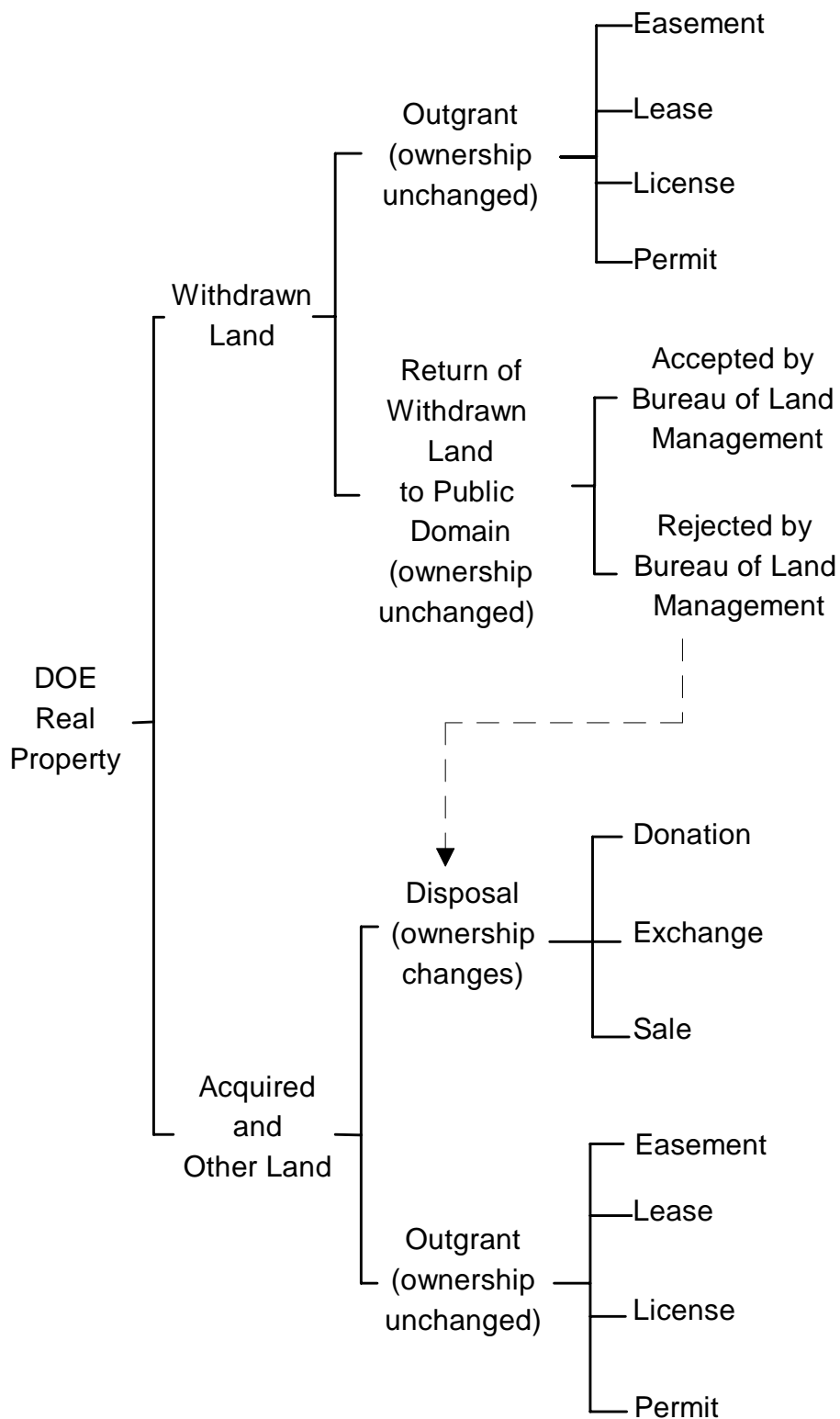
transferred or disposed of because different general requirements apply depending on the type of real property involved. Transfers of withdrawn land fall under the jurisdiction of the Bureau of Land Management (BLM) of the Department of the Interior with potential involvement of the General Services Administration (GSA) (see § 1.4.1 below). Real property transfers of acquired land and "other land" fall under the jurisdiction of the General Services Administration (see § 1.4.2 below) with some exceptions (see § 1.4.3 below).

1.2.3 Types of Real Property Transfers

This guidance covers all real property transfers, whether or not the ownership changes (see Exhibit 1-2). Real property transfers in which ownership changes include donations, exchanges, and disposals (e.g., sales). There are many environmental requirements that apply to

Exhibit 1-2

Types of Real Property Transfers



such real property transfers. For example, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) requirements apply to real property transfers between Federal agencies (see text box). On the other hand, ownership does not change when withdrawn land is returned to the public domain. There are also outgrants, which provide to another the right to use the property. Outgrants include easements, leases, licenses, or permits (see glossary for definitions of these terms). It is important to note that environmental requirements apply to real property transfers even when ownership does not change. For example, as will be seen later in Chapter 13, National Environmental Policy Act (NEPA) reviews must be conducted for leases when the use of the property changes. In addition, States must be notified of leases of Federal property on which hazardous substances have been stored.

1.2.4 Environmental Requirements

This guidance covers environmental requirements only; occupational safety and health requirements are beyond the scope of this document. However, where appropriate, the text will suggest to the reader that information gathered on certain topics (namely, underground storage tanks, radioactive sources, polychlorinated biphenyls, and asbestos) should also be included in an occupational safety and health baseline survey (see Exhibit 1-3). The environmental requirements that are covered in this guidance are, for the most part, either inspection, reporting, or evaluation requirements. Cleanup, corrective action, or remediation requirements are beyond the scope of this guidance (except for DOE Order 5400.5 addressing radioactive decontamination). Cleanup requirements often depend on the future land use (as expressed in comprehensive land use plans), community expression of preferences, the type of contaminants involved, and Records of Decisions under NEPA or CERCLA. It is prudent to engage in cleanup of contamination prior to a real property transfer in order to improve marketability of the property, even when cleanup may not be required. BLM or GSA have the right to reject acceptance of any real property for disposition based on requirements in 43 CFR Part 2374 and 41 CFR Part 101-47, respectively. Also, this guidance covers only

Defining "transfer"

The term "transfer" of property used in CERCLA differs from the term used throughout this document. EPA (in 55 FR 14208 (1990)) interpreted the use of the term "transfer" as that used by GSA in the Federal Property Management Regulations (FPMR) at 41 CFR 101-47.203-2, "Transfer and Utilization," which in turn alludes to 41 CFR 101-47.203-7, "Transfers." In the FPMR, GSA uses the term "transfer" to signify the transfer of the ownership of a property from one Federal agency to any of the following: another Federal agency, a mixed-ownership Government corporation, or the municipal government of the District of Columbia. Thus, it is clear that "transfers" of property ownership between Federal agencies are covered by CERCLA. Also, while it seems clear that GSA does not use "transfer" to include leases, leases can be "transferred" from one Federal agency to any of the aforementioned entities in the sense that the ownership of the lease is being transferred. Because of the complexity of real estate law, EPA (at 55 FR 14209) simply states that it has not addressed the issue of whether easements and leases are covered by CERCLA.

Notwithstanding, this guidance document uses transfer to include leases (and other outgrants in which ownership does not change).

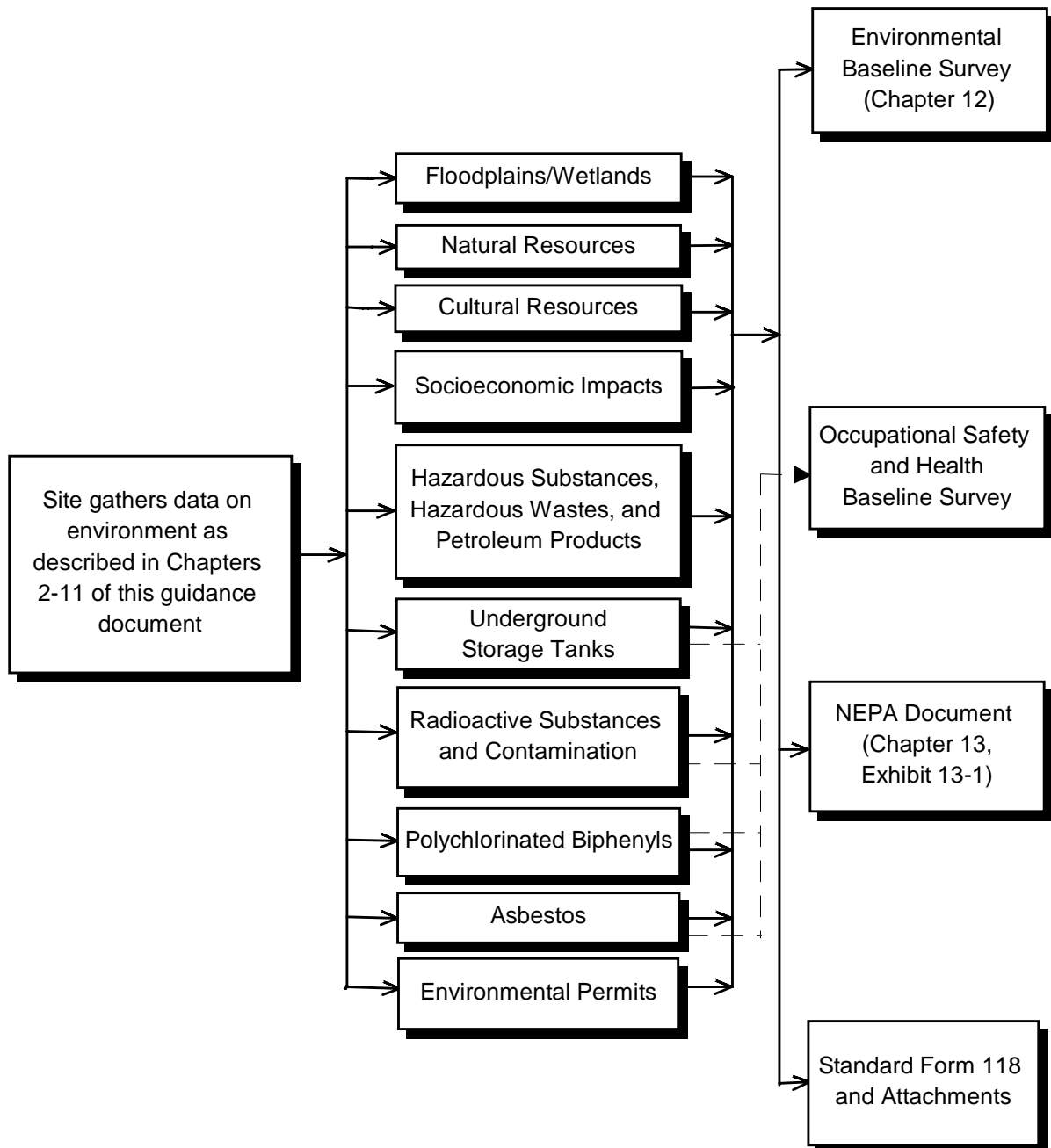
environmental requirements imposed by Federal statute or regulation.

1.3 Organization of the Guidance

This guidance document is divided into fourteen chapters:

1. Introduction
2. Floodplains and Wetlands
3. Natural Resources
4. Cultural Resources
5. Socioeconomic Impacts
6. Hazardous Substances, Hazardous Wastes, and Petroleum Products
7. Underground Storage Tanks (USTs)
8. Radioactive Substances and Contamination
9. Polychlorinated Biphenyls (PCBs)
10. Asbestos
11. Environmental Permits
12. Environmental Baseline Surveys (EBSSs)

Exhibit 1-3
Relationship among Environmental Baseline Survey,
Occupational Safety & Health Baseline Survey,
NEPA Document, and SF 118



- 13. NEPA Review
- 14. Conclusion

The remainder of Chapter 1 provides an overview of the general requirements for real property transfers at DOE, including BLM and GSA involvement and DOE Order 430.1. The situations authorized by statute where DOE may directly engage in real property transfers without BLM or GSA involvement are also discussed.

Each subsequent chapter (except Chapters 12, 13, and 14) is structured generally as follows:

- Introduction
- Drivers of the Requirements (e.g., drivers of the floodplain/wetland requirements for real property transfers)
- Requirements for Real Property Transfers
- Implementation of the Requirements (Chapter 2-5 and 11) or Data Gathering (Chapters 6-10)
- Relationship to Environmental Baseline Surveys
- Relationship to NEPA Documents
- Leases and Other Outgrants (if applicable)
- Notice of Intention to Relinquish
- GSA-Specific Requirements (if applicable)
- Requirements for the Deed (if applicable)
- Notification of Change in Ownership (if applicable)
- Checklist
- References

After the introductory chapter, the next four chapters (i.e., Chapters 2, 3, 4, and 5) are devoted to environmentally sensitive resources. The Secretary of Energy's Land and Facility Use Policy, issued December 21, 1994 and DOE Policy 430.1, also

called "Land and Facility Use Planning Policy," issued July 9, 1996, emphasize DOE's commitment to act as a steward of the national resources discussed in these four chapters. The two policies state that DOE sites must consider how best to use DOE land and facilities to support critical missions and to stimulate the economy while preserving natural resources, diverse ecosystems, and cultural resources. *Charting the Course: The Future Use Report* points out that many sites and communities participating in planning the reuse of DOE facilities

"took greater note of the wealth of the resources that exist as part of the DOE complex, including valuable ecosystems and habitats; varied geologic settings; cultural and historical resources . . . Consequently, at many sites, recommendations promoted the preservation of ecological, cultural, and historical resources, in particular."

Chapter 2 covers floodplains and wetlands. Chapter 3 addresses natural resources (including endangered and threatened species, migratory birds, and wild and scenic rivers).

Cultural resources and socioeconomic impacts are covered in Chapters 4 and 5, respectively. Cultural resources are also environmentally sensitive resources. Cultural resources include historic properties; archeological resources; and Native American (including American Indian, Alaskan Native, and Native Hawaiian) human and funerary remains, and sacred sites. Native American traditional subsistence use areas are generally separated from cultural resources and treated under the topic of socioeconomic impacts. The chapter on socioeconomic impacts also deals with environmental justice, Human Resource Plan, and cost-benefit analyses.

Chapter 6 covers Resource Conservation and Recovery Act (RCRA) and CERCLA notification requirements regarding transfers of real property containing hazardous substances or waste and petroleum products. Although underground storage tanks, radioactive substances and contamination, polychlorinated biphenyls, and asbestos all involve hazardous substances or petroleum products, there are special requirements imposed either by GSA, DOE, or both GSA and DOE that call for additional

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treatment of these topics, which are addressed in Chapters 7, 8, 9, and 10 (approvals and waste activity notifications under the Toxic Substances Control Act also are covered in Chapter 9).

Chapter 11 discusses real property transfer requirements with respect to Clean Air Act, Clean Water Act, and RCRA permits.

Once all of the environmental data gathered about a real property, including its compliance status, are in hand, they can be organized, compiled, and presented in the form of an environmental site assessment or environmental baseline survey (EBS), as discussed in Chapter 12 (see Exhibit 1-3). The Community Environmental Response Facilitation Act of 1992 (CERFA) (Public Law 102-426) establishes requirements that laid the framework for an EBS in terms of identifying uncontaminated land on which Federal agencies plan to terminate operations. These requirements, such as for detailed title searches and photographs, will be discussed along with EBSs in Chapter 12.

The NEPA review process is described in Chapter 13. Although in many cases, the information in an EBS may overlap with a NEPA document (see Exhibit 1-3), the EBS and the NEPA document serve somewhat different purposes. The environmental site assessment or EBS is a document that provides information about the status of a property with respect to sensitive resources, contamination, and compliance; it was originally intended to benefit the buyer in deciding on a property purchase. A NEPA document is intended to assist both the public and DOE managers, who are disposing of real property, in making a decision regarding a particular real property transfer and the alternatives to the transfer based on the environmental consequences.

1.4 General Requirements

The general requirements for real property transfer depend on whether the real property is withdrawn, acquired, or "other" land. The Department of the Interior, in particular BLM, oversees transfers of withdrawn land (§1.4.1). GSA oversees transfers of withdrawn land that is rejected by BLM, acquired land, and "other" land (§ 1.4.2). In several situations, DOE may engage in real property

transfers without either BLM or GSA oversight (see § 1.4.3).

1.4.1 Department of the Interior Oversight

Lands withdrawn from the public domain are under the jurisdiction of the Department of the Interior. Real property transfers of withdrawn land must be made in accordance with the Federal Land Policy and Management Act of 1976. Within the Department of the Interior, the BLM issued regulations on the restoration and revocation of withdrawn land to implement the Act (43 CFR Part 2370).

DOE may temporarily outgrant withdrawn lands to other parties with the consent of BLM. An exception is that withdrawn lands under the purview of the Atomic Energy Act of 1954 (see § 1.4.3), which are temporarily not needed, may be outgranted by DOE without BLM consent. In a few situations, DOE has been permitted by other

Strategic Alignment

The DOE complex consists of over 2.4 million acres of land with more than 20,000 facilities. With the end of the Cold War, the need for activities associated with the Nation's nuclear weapons production activities has been reduced. In response, the DOE has been preparing retrenchments in the production of nuclear weapons by reconfiguring, downsizing, and closing many facilities. In addition, former DOE Secretary Hazel O'Leary on May 3, 1995 announced the Strategic Alignment Initiative to reduce the size and cost of the department. The target is a reduction in budget by \$14.1 billion and personnel by 3,788 employees over five years. Prepared with employee participation over a period of two years, this Initiative proposed the closing of 24 facilities, half of which are field offices. Closures involve the transfer of real property, whether it be to another Federal agency, State or local government entity, or a private organization. The Initiative also includes proposals for the privatization of certain facilities, such as the Naval Petroleum and Oil Shale Reserves as well as some of the power marketing administrations. Privatization signifies the sale of the assets of a particular operation, including all associated real and personal property, to a private enterprise.

Federal agencies to build facilities on land withdrawn for use by those other Federal agencies. In such cases, DOE may outgrant DOE facilities as long as (1) the terms of the lease are consistent with the original withdrawal and original use permitted by BLM and (2) the other Federal agency agrees.

Some of the withdrawn lands reserved for and used by DOE contain improvements, such as buildings, structures, and other facilities, or have substantially changed in character. Such withdrawn lands are generally not suitable for return to the public domain for disposition other than leasing and are generally turned over to GSA for disposition, when both BLM and GSA concur.

1.4.2 General Services Administration Oversight

GSA generally has disposition oversight over all acquired land and withdrawn lands not suitable for return to the public domain. Disposition of acquired land and withdrawn lands not suitable for return to the public domain are governed by the requirements of the Federal Property and Administrative Services Act of 1949 unless otherwise provided for in a specific statute (see § 1.4.3). GSA issues the Federal Property Management Regulations (FPMR) to implement the Act (41 CFR Parts 101-47 and 109).

1.4.3 Exceptions to Oversight

DOE has limited authority to engage directly in real property transfers without BLM or GSA authorization. There are ten specific statutes that grant DOE such authority:

- Bonneville Project Act of 1937
- Atomic Energy Act of 1954
- Atomic Energy Community Act of 1955
- Naval Oil Shale Reserves Possession Act of 1962
- Energy Reorganization Act of 1974
- Energy Policy and Conservation Act of 1975
- Federal Non-Nuclear Energy Research and Development Act of 1974
- Department of Energy Organization Act of 1977
- National Defense Authorization Act of 1993 (Hall Amendment)

- Defense Authorization Act for Fiscal Year 1996

The Bonneville Project Act gives limited authority to the Bonneville Power Administrator to transfer real property.

The Atomic Energy Act of 1954 authorizes DOE under certain circumstances to sell, lease, or transfer excess acquired real property (see glossary), and to lease acquired or withdrawn land (temporarily not needed). A recent DOE real property transferred under §161(g) of the Atomic Energy Act was the Pinellas site which was sold to the Pinellas County Industry Council. The site will be used for research and development of technologies related to neutron generators and nuclear material.

The Atomic Energy Community Act of 1955 authorizes DOE under certain terms and conditions to transfer real property directly to private owners within the atomic energy communities of Oak Ridge, TN; Richland, WA; and Los Alamos, NM that were originally owned and managed by the Atomic Energy Commission. (It is interesting to note that by 1958, all homes in Oak Ridge became privately owned, and the townsite of Oak Ridge was incorporated into the City of Oak Ridge.)

The Naval Oil Shale Reserves Possession Act of 1962 (Public Law 87-796) authorizes DOE to transfer the Naval Petroleum Reserves only in consultation with Congress and upon approval of the President.

The Energy Reorganization Act of 1974 provides that transfers of facilities constructed from funds provided under this Act are subject to pre-approval by Congress.

The Federal Non-Nuclear Energy Research and Development Act of 1974 authorizes DOE to transfer real property associated with the conversion of oil shale into alternative fuels.

Section 159(f) of the Energy Policy and Conservation Act of 1975 authorizes DOE to lease, sell, or otherwise dispose of facilities related to the Strategic Petroleum Reserve (SPR). DOE exercised

1. Introduction

its authority under this act to dispose of Sulphur Mines, an unneeded SPR site in Louisiana, during the early 1990s. (The site is not associated with the mineral.)

Section 649 of the Department of Energy Organization Act of 1977 authorizes DOE to lease its temporarily not needed facilities for up to five years when in the public interest. Leasing under this particular Act provides more flexibility than the Atomic Energy Act because leasing requirements are less exacting, although the five-year limit may be unacceptable to a number of potential lessees. The facilities need only be under DOE's custody. For example, DOE has leased Building 313 in the North 300 Area of the Hanford Site to Kaiser Aluminum and Chemical Corporation for three years.

Section 3154 of the National Defense Authorization Act of 1993 (also known as the Hall Amendment to the Department of Energy Organization Act of 1977) authorizes DOE to lease acquired land in the public interest. The land must also be temporarily not needed at closing or reconfigured weapons production facilities. Although the limit on a lease is ten years, the lease may include an option to renew for a term of more than 10 years. Exercising the option for the extended term requires that the lease be subject to consultation with and concurrence of:

- The U.S. Environmental Protection Agency (EPA) for sites listed on the National Priorities List or
- The appropriate State official(s) for sites not listed on the National Priorities List.

An example invoking Section 3154 of the National Defense Authorization Act of 1993 is DOE's proposal to lease the Mound Plant to the Miamisburg Mound Community Improvement Corporation for use as an advanced manufacturing center with a main focus on commercializing products and process development.

Title XXXIV, Subtitle B, Section 3412(h) of the Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) directs the Secretary of

Energy to sell the Federal government's interests in Naval Petroleum Reserve Number 1 (NPR-1, also known as Elk Hills). It comprises 47,985 acres located about 35 miles west of Bakersfield, California; NPR-1 was created in 1912 to provide an emergency source of military fuel but was not fully developed until the oil embargo of 1976. DOE is in the process of preparing a supplemental environmental impact statement to analyze the divestiture of Federal ownership and operation.

1.5 DOE Requirements

1.5.1 DOE Order 430.1

DOE has its own complex-wide requirements in DOE Order 430.1, "Life Cycle Asset Management." This Order supersedes DOE Order 4300.1C, "Real Property Management" in accordance with the schedule in §2 of DOE Order 430.1.

1.5.2 DOE Program Office Requirements

Within DOE, certain program offices adopt their own guidance or impose their own requirements in addition to the complex-wide requirements of DOE Order 430.1. For example, the Assistant Secretary for Environmental Management has adopted *Policy on Decommissioning of Department of Energy Facilities under the Comprehensive Environmental Response, Compensation, and Liability Act; Decommissioning Resource Manual; Decommissioning Implementation Guide; Charting the Course: The Future Use Report; and Resourceful Reuse: A Guide to Planning Future Uses of Department of Energy Sites*. Also, the Office of Worker and Community Transition provides *Guidance for Support of Economic Development Activities* that should be followed. The Office of Field Management has published *DOE Real Estate Process: A Desk Guide for Real Estate Personnel*.

1.6 Overview of Procedures for Real Property Transfers

1.6.1 Determining Excess Real Property

A site manager of a field element identifies a real property not needed by a program (see Exhibit 1-4) as directed by Executive Order 12512, "Federal Real Property Management," through analysis

Exhibit 1-4

Initial Procedures for DOE Real Property Transfers

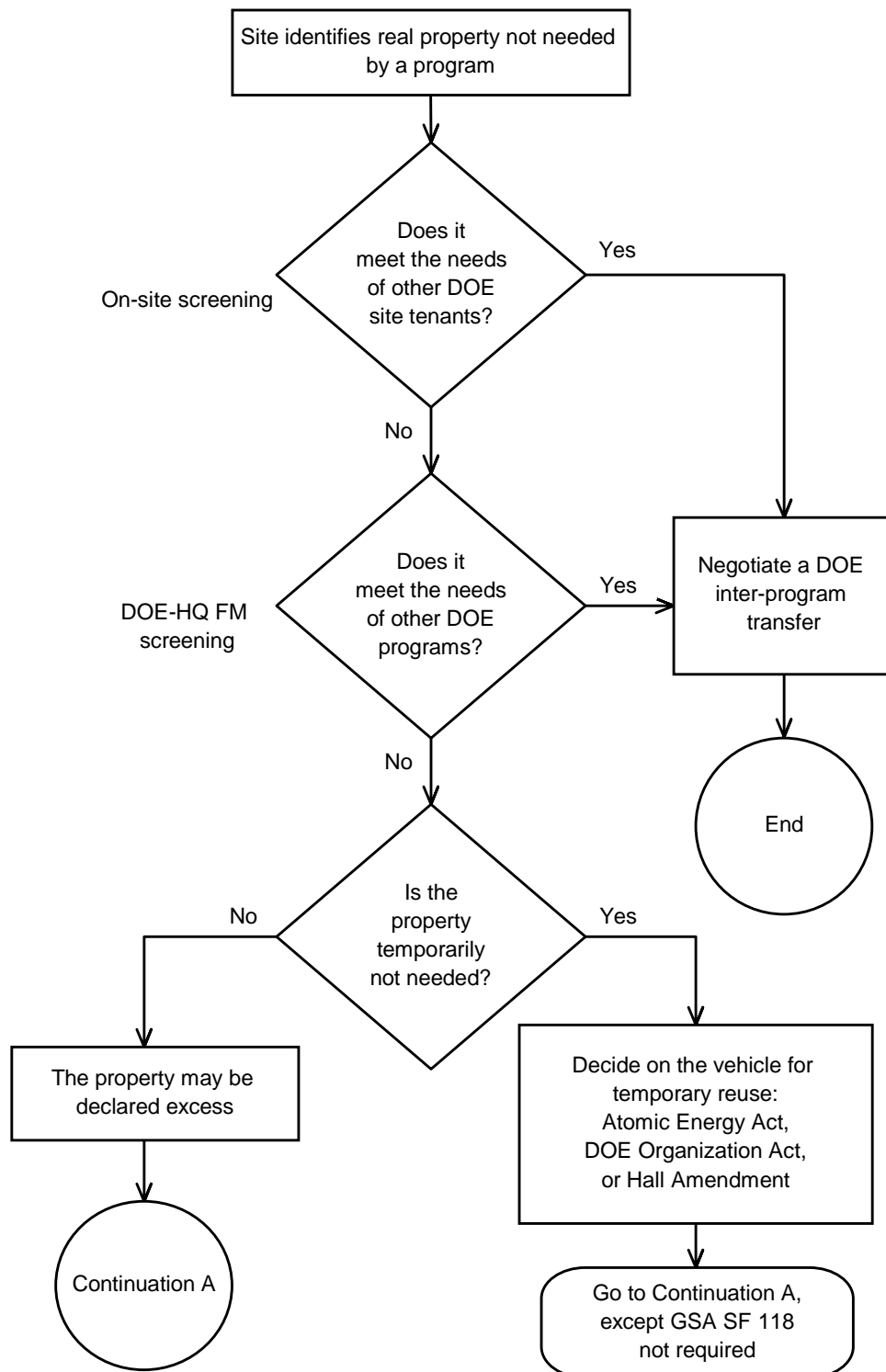


Exhibit 1-4
Initial Procedures for DOE Real Property Transfers
(Continuation A)

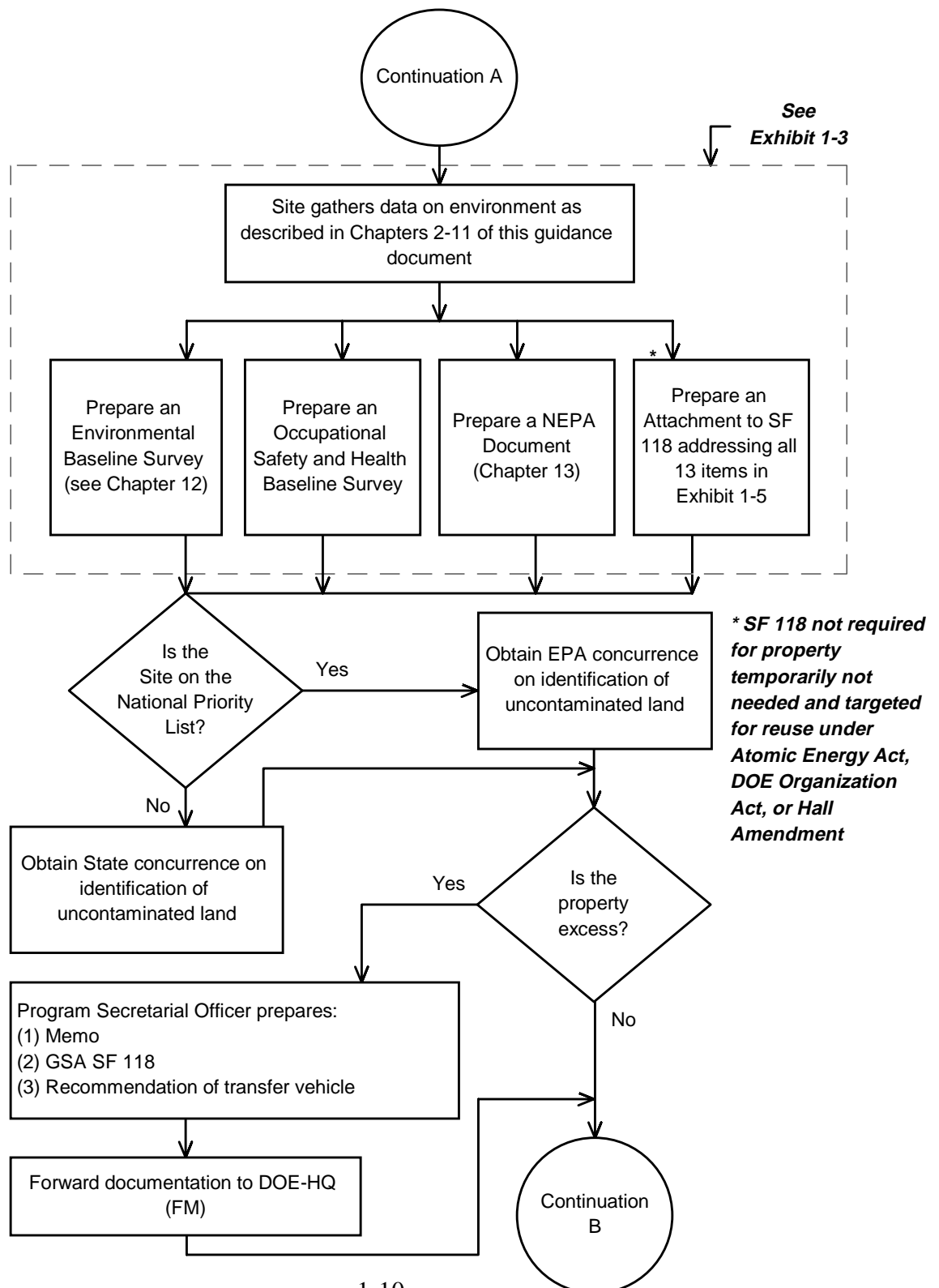


Exhibit 1-4
Initial Procedures for DOE Real Property Transfers
(Continuation B)

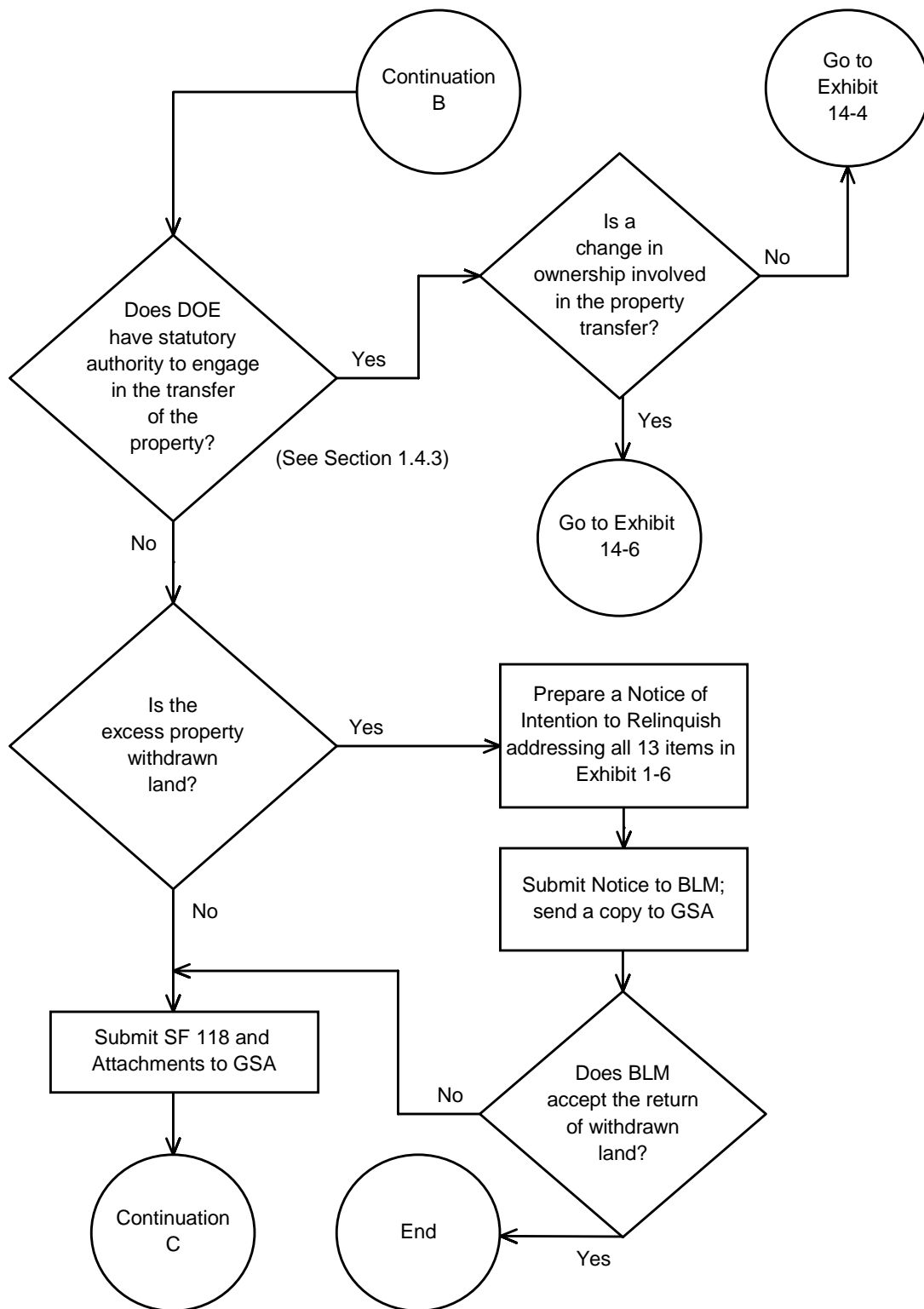
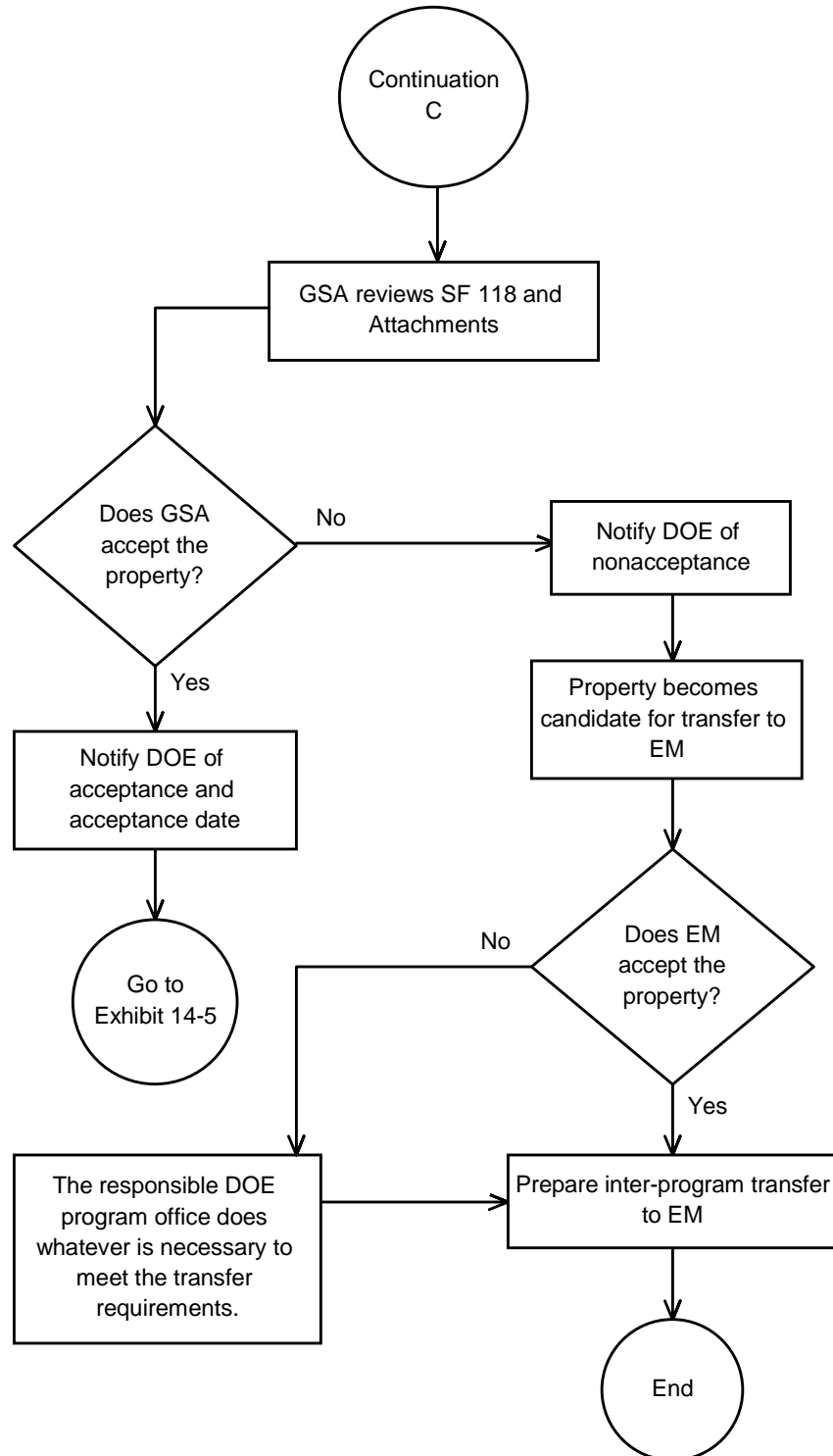


Exhibit 1-4
Initial Procedures for DOE Real Property Transfers
(Continuation C)



required under DOE Order 4320.1B, "Site Development Planning," and DOE Order 430.1, "Life-Cycle Asset Management." The site manager determines whether the real property is temporarily not needed. The property is then screened to see if it might meet the needs of other DOE site tenants. If another DOE site program can use the property, the programs negotiate an inter-program transfer under DOE Orders 430.1 and 4330.5 (to be subsumed by DOE Order 430.1 in accordance with the schedule in §2 of DOE Order 430.1).

DOE Order 4330.5 provides the protocol for the inter-program transfer of real property to the Office of Environmental Management (EM) or other programs. Candidates for transfers to EM are primarily contaminated facilities or contaminated portions of facilities.

If there are no DOE site programs that can use the property, the site manager reports the property to the Office of Field Management (FM) at DOE Headquarters. The appropriate Program Secretarial Officer or designee makes a determination that a real property is excess by preparing the following for FM:

- (1) Memorandum stating that the real property is excess,
- (2) GSA Standard Form (SF) 118, "Report of Excess Real Property," (see 41 CFR 101-47.202) (see Appendix A) and any appropriate supplementary forms (118a, "Buildings, Structures, Utilities, and Miscellaneous Facilities;" 118b, "Land;" and 118c, "Related Personal Property"), and
- (3) Recommendation for disposal (see glossary) of the property from DOE accountability.

The memorandum must receive all appropriate field concurrences (such as counsel and environmental) and be approved in writing. The Attachment to SF 118 must address 13 items required by the Federal Property Management Regulations at 41 CFR 101-47.202-2 (see Exhibit 1-5). The environmental requirements included in the list of

13 items will be covered in Chapters 2-13 of this guidance document.

FM screens the needs of other field elements, program offices and operations offices for the property. If there is no permanent need within DOE for the property, it can be declared excess to the Department. (See *Resourceful Reuse: A Guide to Planning Future Uses of Department of Energy Sites* for further information.)

At the same time these 13 items are addressed, the field element must identify that portion of the real property on which no hazardous substances or petroleum products were stored for one year or more, released, or disposed in order to meet the requirements of the Community Environmental Response Facilitation Act of 1992 (CERFA) (discussed in Chapter 6). The results of this identification must be submitted for concurrence by EPA if the real property is a site on the National Priorities List or by a State official if not on the National Priorities List (see Exhibit 1-4, Continuation A). Section 3 of CERFA states that the concurrence is deemed to be obtained if, within 90 days of receiving a request for the concurrence, the State official has not acted.

The Real Property Team in FM then verifies that the real property is excess to the needs of all programs in the Department. Upon approving the property disposal action, the Team Leader transmits the completed GSA Standard Form 118 to the appropriate GSA regional office and a copy to the field element (see Exhibit 1-4, Continuation B).

DOE Headquarters' approval for reporting of excess real property is generally required for large properties or for field elements lacking a certified realty specialist (see *DOE Real Estate Process: A Desk Guide for Real Estate Personnel*).

If DOE Headquarters approval is not required, the field element then reports the real property to GSA for disposal, and submits the required GSA Standard Form 118 and any appropriate supplementary forms (118a, "Buildings, Structures, Utilities, and Miscellaneous Facilities;" 118b, "Land;" and 118c, "Related Personal Property").

**Exhibit 1-5. List of 13 Items that Must be Addressed in an
Attachment to SF 118**

(environmental* requirements are in bold;
chapter in which the requirement is covered is in *italic*)

1. The description of the real property.
2. The date title was vested in the United States.
3. All exceptions, reservations, conditions, and restrictions relating to the title acquired.
4. Details concerning any circumstance (occurring between the date of acquisition of the real property and the present) which may have affected the right, title, and interest of the United States in the real property.
5. **The status of civil and criminal jurisdiction over the land** (*Chapter 4*).
6. **Detailed information regarding flood hazards, floodplains, or wetlands and restricted uses** (*Chapter 2*).
7. Description of fixtures and related personal property with historic or artistic value.
8. **The historic significance of the real property and whether the property or any part is listed or eligible for the National Register of Historic Places** (*Chapter 4*).
9. **Description of:**
 - (a) **the type, location, and condition of asbestos in buildings or improvements on the land** (*Chapter 10*);
 - (b) **any asbestos control measures taken** (*Chapter 10*); and
 - (c) **any estimated costs (and time) to remove all or part of the asbestos** (*Chapter 10*).
10. **Information on:**
 - (a) **the type and quantity of each hazardous substance known to have been stored (for one year or more), released, or disposed on the real property, as defined in 40 CFR Part 373** (*Chapters 6 through 10*);
 - (b) **whether all remedial action necessary to protect human health and the environment with respect to hazardous substances on the real property has been taken** (*Chapters 6 through 10*); and
 - (c) **if such remedial action has not been taken, when such action will be completed** (*Chapters 6 through 10*).

* Includes the human environment (e.g., cultural resources).

**Exhibit 1-5. List of 13 Items that Must be Addressed in an
Attachment to SF 118**

(environmental* requirements are in bold;
chapter in which the requirement is covered is in *italic*) (continued)

11. A legible, reproducible copy of all instruments (agreements, licenses, etc.) affecting the right, title, or interest of the United States in the real property.
12. Any appraisal reports of the fair market value or the fair annual rental of the real property.
13. **Certification by a responsible person that each item of equipment subject to 40 CFR Part 761 on the real property is in a state of compliance** (*Chapter 9*).

* Includes the human environment (e.g., cultural resources).

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1.6.2 Department of the Interior Involvement

If the excess real property is withdrawn land, DOE must notify the appropriate BLM office that it intends to relinquish the property for return to the public domain (see Exhibit 1-4, Continuation B). DOE must also send a copy of the Notice of Intention to Relinquish to the appropriate regional office of GSA. There is no specific standard form for the Notice of Intention to Relinquish. However, it must be in duplicate and contain the 13 items of information listed in Exhibit 1-6.

BLM reviews the Notice of Intention to Relinquish to determine suitability for return to the public domain. The five conditions (43 CFR 2374.2) for BLM acceptance of withdrawn land for return to the public domain are as follows:

- (a) The lands have been decontaminated and restored to suitable conditions. If decontamination and restoration are uneconomical, DOE must install and maintain protective notices and barriers.
- (b) DOE agrees to undertake treatment measures and measures deemed necessary by BLM to prevent deterioration of the land and resources.
- (c) DOE has exhausted GSA procedures for disposition of improvements to the land and certifies they are of no value.
- (d) DOE has resolved, through a final grant or denial, all commitments to third parties relative to rights and privileges related to the land.
- (e) DOE has submitted to the appropriate BLM office a copy of the easements, leases, or other encumbrances (see glossary).

Upon a favorable review, BLM will notify DOE and GSA that it accepts accountability and responsibility for excess withdrawn land. BLM then manages the land. If BLM determines that the excess withdrawn land has been so substantially changed in character that it is not suitable for return to the public domain, it will notify GSA and request GSA to concur in the determination. BLM tends to

reject excess withdrawn land on which improvements have been built.

1.6.3 GSA Involvement

GSA reviews the submission from DOE to ensure that the documentation is complete and that the real property has no encumbrances and has a marketable title. GSA advises the field element of the acceptance date of the report of excess property (see Exhibit 1-4, Continuation C). If GSA rejects the property being reported as excess, it becomes a candidate for transfer to EM. GSA generally rejects a property if it is contaminated. Until the property is disposed, the field element has environmental, safety, and health responsibility for the property for five fiscal quarters from GSA's acceptance of the report of excess property or until the excess property is disposed, whichever is earlier.

Subject to GSA approval, reports of excess real property may be withdrawn or corrected at any time prior to real property transfer by submission of a modified SF 118 (and SF 118 supplementary forms) to the appropriate GSA regional office. For example, new significant environmental findings may require the form to be revised. The DOE official originally signing the report of excess property must approve any withdrawal or significant correction.

The Federal Property and Administrative Services Act allows interim use of excess property. Interim use includes lease, license, or permit (see glossary). However, GSA has general supervision and approval authority over interim use of such properties pending final transfer. In general, GSA limits interim use to one year with the right to cancel on 30-day notice.

The final procedures for disposing of DOE real property and associated environmental requirements are summarized in Chapter 14.

Exhibit 1-6. List of 13 Items that Must be Addressed in a Notice of Intention to Relinquish

(environmental* requirements in bold;
chapter in which requirement is covered is in *italic*)

1. Name and address of DOE field element responsible for the subject real property.
2. Citation of the order which withdrew or reserved the subject land for DOE use.
3. Legal description and acreage of the land, unless referred to in the order of withdrawal or reservation.
4. Description of the improvement existing on the land.
5. **The extent to which the land is contaminated and the nature of the contamination** (*Chapters 6-10*).
(The identification of uncontaminated land should also be included to meet the requirements of the Community Environmental Response Facilitation Act of 1992.)
6. **The extent to which the land has been decontaminated or the measures being taken to protect the public from the contamination** (*Chapters 6-10*).
7. The extent to which the land has been changed in character other than by construction of improvements.
8. **The extent to which the land and resources have been disturbed and the measures being taken to recondition the property** (*Chapters 2-4*).
9. If improvements have been abandoned on the land, a certification that DOE has exhausted GSA procedures for their disposal and that the improvements are without value.
10. A description of easements or other rights and privileges (leases, encumbrances) burdened on the land.
11. A list of the terms and conditions, if any, DOE deems necessary to be incorporated in any further disposition of the land in order to protect the public interest (*Chapters 2-4*).
12. Any information relating to the interest of other agencies or individuals in acquiring use of the land.
13. Any recommendations (e.g., disposition of the land by GSA).

* Includes the human environment (e.g., cultural resources).

1. Introduction

1.7 References

- DOE, 1997. *DOE Real Estate Process: A Desk Guide for Real Estate Personnel*, U.S. Department of Energy, DOE/FM, 1997.
- DOE, 1996. *Resourceful Reuse: A Guide to Planning Future Uses of Department of Energy Sites. Prospective Real Property Users*, U.S. Department of Energy, DOE/EM-0284, May 1996.
- DOE, 1996. *Resourceful Reuse: A Guide to Planning Future Uses of Department of Energy Sites. Program and Real Property Managers*, U.S. Department of Energy, DOE/EM-0285, May 1996.
- DOE, 1996. *Charting the Course: The Future Use Report*, DOE/EM-0283, U.S. Department of Energy, Office of Environmental Management, April 1996.
- DOE, 1996. *Guidance for Support of Economic Development Activities (DRAFT)*, U.S. Department of Energy, Office of Worker and Community Transition.
- DOE, 1995. *Decommissioning Resource Manual*, DOE/EM-0246, U.S. Department of Energy, Office of Environmental Management, August 1995.
- DOE and EPA, 1995. *Policy on Decommissioning of Department of Energy Facilities under the Comprehensive Environmental Response, Compensation, and Liability Act*, U.S. Department of Energy and U.S. Environmental Protection Agency, May 1995.
- DOE, 1995. *Decommissioning Implementation Guide*, U.S. Department of Energy, Office of Environmental Management, May 1995.